



Senate

General Assembly

January Session, 2009

File No. 704

Senate Bill No. 542

Senate, April 20, 2009

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE TAKING OF A DNA SAMPLE FROM CONVICTED PERSONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-102g of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) Any person who has been convicted of [a criminal offense
4 against a victim who is a minor, a nonviolent sexual offense or a
5 sexually violent offense, as those terms are defined in section 54-250,
6 or] a felony or a class A or B misdemeanor, and has been sentenced on
7 that conviction to the custody of the Commissioner of Correction shall,
8 prior to release from custody and at such time as the commissioner
9 may specify, submit to the taking of a blood or other biological sample
10 for DNA (deoxyribonucleic acid) analysis to determine identification
11 characteristics specific to the person. If any person required to submit
12 to the taking of a blood or other biological sample pursuant to this
13 subsection refuses to do so, the Commissioner of Correction or the
14 commissioner's designee shall notify the Department of Public Safety

15 within thirty days of such refusal for the initiation of criminal
16 proceedings against such person.

17 (b) Any person who is convicted of [a criminal offense against a
18 victim who is a minor, a nonviolent sexual offense or a sexually violent
19 offense, as those terms are defined in section 54-250, or] a felony or a
20 class A or B misdemeanor and is not sentenced to a term of
21 confinement shall, as a condition of such sentence and at such time as
22 the sentencing court may specify, submit to the taking of a blood or
23 other biological sample for DNA (deoxyribonucleic acid) analysis to
24 determine identification characteristics specific to the person.

25 (c) Any person who has been found not guilty by reason of mental
26 disease or defect pursuant to section 53a-13 of [a criminal offense
27 against a victim who is a minor, a nonviolent sexual offense or a
28 sexually violent offense, as those terms are defined in section 54-250,
29 or] a felony or a class A or B misdemeanor, and is in custody as a result
30 of that finding, shall, prior to discharge from custody in accordance
31 with subsection (e) of section 17a-582, section 17a-588 or subsection (g)
32 of section 17a-593 and at such time as the Commissioner of Mental
33 Health and Addiction Services or the Commissioner of Developmental
34 Services with whom such person has been placed may specify, submit
35 to the taking of a blood or other biological sample for DNA
36 (deoxyribonucleic acid) analysis to determine identification
37 characteristics specific to the person.

38 (d) Any person who has been convicted of [a criminal offense
39 against a victim who is a minor, a nonviolent sexual offense or a
40 sexually violent offense, as those terms are defined in section 54-250,
41 or] a felony or a class A or B misdemeanor, and is serving a period of
42 probation or parole, and who has not submitted to the taking of a
43 blood or other biological sample pursuant to subsection (a), (b) or (c) of
44 this section, shall, prior to discharge from the custody of the Court
45 Support Services Division or the Department of Correction and at such
46 time as said division or department may specify, submit to the taking
47 of a blood or other biological sample for DNA (deoxyribonucleic acid)

48 analysis to determine identification characteristics specific to the
49 person.

50 (e) Any person who has been convicted or found not guilty by
51 reason of mental disease or defect in any other state or jurisdiction of a
52 felony or of any crime, the essential elements of which are
53 substantially the same as a [criminal offense against a victim who is a
54 minor, a nonviolent sexual offense or a sexually violent offense, as
55 those terms are defined in section 54-250] crime in this state that is
56 classified as a class A or B misdemeanor, and is in the custody of the
57 Commissioner of Correction, is under the supervision of the Judicial
58 Department or the Board of Pardons and Paroles or is under the
59 jurisdiction of the Psychiatric Security Review Board, shall, prior to
60 discharge from such custody, supervision or jurisdiction submit to the
61 taking of a blood or other biological sample for DNA
62 (deoxyribonucleic acid) analysis to determine identification
63 characteristics specific to the person.

64 (f) Notwithstanding the provisions of subsections (a) to (d),
65 inclusive, of this section, any person who is convicted or found not
66 guilty by reason of mental disease or defect pursuant to section 53a-13,
67 on or after the effective date of this section, of a felony or a class A or B
68 misdemeanor, shall, prior to the time scheduled for such person to be
69 sentenced or committed for such offense, submit to the taking of a
70 blood or other biological sample for DNA (deoxyribonucleic acid)
71 analysis to determine identification characteristics specific to the
72 person.

73 [(f)] (g) The analysis shall be performed by the Division of Scientific
74 Services within the Department of Public Safety. The identification
75 characteristics of the profile resulting from the DNA analysis shall be
76 stored and maintained by the division in a DNA data bank and shall
77 be made available only as provided in section 54-102j.

78 [(g)] (h) Any person who refuses to submit to the taking of a blood
79 or other biological sample pursuant to this section shall be guilty of a
80 class A misdemeanor.

81 Sec. 2. Subsection (a) of section 54-102h of the general statutes is
82 repealed and the following is substituted in lieu thereof (*Effective*
83 *October 1, 2009*):

84 (a) (1) The collection of a blood or other biological sample from
85 persons required to submit to the taking of such sample pursuant to
86 subsection (a) of section 54-102g, as amended by this act, shall be the
87 responsibility of the Department of Correction and shall be taken at a
88 time and place specified by the Department of Correction.

89 (2) The collection of a blood or other biological sample from persons
90 required to submit to the taking of such sample pursuant to subsection
91 (b) of section 54-102g, as amended by this act, shall be the
92 responsibility of the Department of Public Safety and shall be taken at
93 a time and place specified by the sentencing court.

94 (3) The collection of a blood or other biological sample from persons
95 required to submit to the taking of such sample pursuant to subsection
96 (c) of section 54-102g, as amended by this act, shall be the
97 responsibility of the Commissioner of Mental Health and Addiction
98 Services or the Commissioner of Developmental Services, as the case
99 may be, and shall be taken at a time and place specified by said
100 commissioner.

101 (4) The collection of a blood or other biological sample from persons
102 required to submit to the taking of such sample pursuant to subsection
103 (d) of section 54-102g, as amended by this act, shall be the
104 responsibility of the Judicial Department if such person is serving a
105 period of probation and of the Department of Correction if such person
106 is serving a period of parole and shall be taken at a time and place
107 specified by the Court Support Services Division or the Department of
108 Correction, as the case may be.

109 (5) The collection of a blood or other biological sample from persons
110 required to submit to the taking of such sample pursuant to subsection
111 (e) of section 54-102g, as amended by this act, shall be the
112 responsibility of the agency in whose custody or under whose

113 supervision such person has been placed, and shall be taken at a time
114 and place specified by such agency.

115 (6) The collection of a blood or other biological sample from persons
116 required to submit to the taking of such sample pursuant to subsection
117 (f) of section 54-102g, as amended by this act, shall be the responsibility
118 of the Judicial Department and shall be taken at a time and place
119 specified by the Court Support Services Division prior to the time
120 scheduled for the sentencing or commitment of such persons.

121 Sec. 3. Section 54-102l of the general statutes is repealed and the
122 following is substituted in lieu thereof (*Effective October 1, 2009*):

123 A [person whose] DNA profile that has been included in the data
124 bank pursuant to sections 54-102g to 54-102k, inclusive, [may request
125 expungement on the grounds that] as amended by this act, shall be
126 expunged in the event that the criminal conviction or finding of not
127 guilty by reason of mental disease or defect on which the authority for
128 including [his] the DNA profile was based has been reversed and the
129 case dismissed. The State Police Forensic Science Laboratory shall
130 purge all records and identifiable information in the data bank
131 pertaining to the person and destroy all samples from the person upon
132 receipt of [(1) a written request for expungement pursuant to this
133 section and (2)] a certified copy of the court order reversing and
134 dismissing the conviction or the finding of not guilty by reason of
135 mental disease or defect.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2009</i>	54-102g
Sec. 2	<i>October 1, 2009</i>	54-102h(a)
Sec. 3	<i>October 1, 2009</i>	54-102l

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Judicial Dpt (Probation)	GF - Cost	\$1.85 million	\$2.3 million
Various State Agencies	GF - Cost	Minimal	Minimal
Public Safety, Dept.	GF - Cost	674,250	837,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the taking of DNA samples to include any person convicted of a class A or B misdemeanor or acquitted due to mental disease or defect. This expansion applies: (1) prospectively to any person sentenced or acquitted for reason of mental disease or defect on or after October 1, 2009; and (2) retrospectively to any person sentenced or acquitted for reason of mental disease or defect and is under the custody or supervision of a state agency on the effective date of the bill.

New Convictions / Acquittals due to Mental Disease or Defect

Effective October 1, 2009, the bill requires the Court Support Services Division (CSSD) of the Judicial Department to take DNA samples prior to sentencing or acquittal due to mental disease or defect. Approximately 14,000 offenders are convicted of class A or B misdemeanors or acquitted due to mental disease or defect each year. It costs the CSSD approximately \$129 for each sample taken; therefore the annual cost of this provision is estimated to be \$1.8 million.

Prior Convictions / Acquittals due to Mental Disease or Defect

Any person convicted (or acquitted due to mental disease or defect) of a class A or B misdemeanor and already supervised by law enforcement agencies on the effective date of the bill would submit to DNA sampling with the state agency supervising the offender prior to discharge from supervision.

The taking of these samples would result in minimal annual costs to the following departments: Correction, Mental Health and Addiction Services, Developmental Services and Public Safety. The cost for these agencies is minimal because DOC staff members take samples through the normal course of their duties and the other agencies take relatively few samples each year. The Court Support Services Division contracts for the taking of samples and currently supervises a significant number of offenders (estimated to be 8,000) who would need to have DNA samples taken under the bill. The estimated cost to take DNA samples from these offenders is \$1 million.

DNA Sample Testing / Processing

The bill requires the Department of Public Safety (DPS) to perform analysis on all DNA samples taken under the bill. The cost of processing a DNA sample is \$40, which results in an estimated cost of \$674,250 (\$580,000 for DNA processing and \$94,250 for overtime costs) in FY 10 and \$837,000 (\$720,000 for DNA processing and \$117,000 for overtime costs) in FY 11.

The Out Years

The ongoing costs to take DNA samples in the out years would decrease to approximately \$1.8 million and the cost to analyze those samples would decrease to \$651,000 as the one-time influx of DNA samples for the 8,000 probationers is depleted.

Sources: Judicial Department's Quarterly Criminal / Motor Vehicle Statute File

OLR Bill Analysis**SB 542*****AN ACT CONCERNING THE TAKING OF A DNA SAMPLE FROM CONVICTED PERSONS.*****SUMMARY:**

This bill requires collection of DNA samples from more people convicted of crimes or acquitted due to a mental disease or defect ("acquittees"). Currently, sex offenders required to register, felons, and felony acquittees must provide DNA samples. The bill extends this requirement to class A or B misdemeanor offenders and acquittees. On and after October 1st, 2009, it speeds up the time for collecting DNA by requiring collection before sentencing or commitment. It specifies that the Judicial Branch's Court Support Services Division (CSSD) is responsible for taking the sample.

For those already confined, committed, or supervised by the departments of Correction, Mental Health and Addiction Services, or Developmental Services or on probation or parole, the bill permits DNA testing for those convicted of A and B misdemeanors according to the schedule for testing sex offenders, felons, and acquittees. CSSD retains the responsibility for collecting samples from those convicted but not imprisoned.

The bill also requires the State Police forensic laboratory to purge all records and identifiable information and destroy all samples submitted and included in its databank upon receipt of a certified copy of a court order reversing and dismissing the conviction or commitment that formed the basis for inclusion in the data bank. Current law requires the person who submitted the sample to request expungement and has no provision for expunging DNA profiles of acquittees.

EFFECTIVE DATE: October 1, 2009

BACKGROUND***Class A and B Misdemeanors***

People convicted of class A misdemeanors are subject to imprisonment for up to one year, a fine of up to \$2,000, or both. Those convicted of a class B misdemeanor are subject to imprisonment for up to six months, a fine of up to \$1,000, or both.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 32 Nay 8 (04/01/2009)